**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
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| Application by | ) | |
| Qwest Communications International, Inc. | ) | WC Docket No. 03-90 |
| For Authorization To Provide | ) | |
| In-Region, InterLATA Services in the State of | ) | |
| Minnesota | ) | |

**DECLARATION OF**

**JOHN F. FINNEGAN**

**ON BEHALF OF**

**AT&T CORP.**

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**DECLARATION OF JOHN F. FINNEGAN**
**ON BEHALF OF AT&T CORP.**

1. My name is John F. Finnegan. I am a Senior Policy Witness employed by AT&T Corp. My business address is 1875 Lawrence Street, Suite 1500, Denver, Colorado, 80202.

2. I received a Bachelor of Science degree in Engineering from Rutgers College of Engineering and an M.B.A. from the University of Denver. After graduating from Rutgers, I spent the next two years with Combustion Engineering in Valley Forge, Pennsylvania, as a Project Engineer. I have worked for AT&T since 1983 in a variety of engineering, quality management, sales and marketing positions. Almost half of that time was spent leading a supplier quality management organization.

3. In 1995, I joined AT&T's New Markets Development Organization (the immediate predecessor to AT&T's Western Region Local Services Organization) and was one of the first employees in the Western Region to explore the opportunities associated with providing local exchange service in that region. In 1996, I assumed my current position. In recent years, I

have concentrated my work efforts on collaborating with Qwest, competitive local exchange carriers ("CLECs"), and state regulators on understanding and evaluating Qwest's operational support system ("OSS"). In fact, I have been AT&T's representative in the Arizona and the Regional Oversight Committee's ("ROC") OSS tests since their inception. I am frequently a panelist on ROC OSS discussions, and have testified in State 271 proceedings in Colorado Washington, North Dakota, South Dakota, Nebraska, Oregon, Minnesota, and New Mexico.

4. I previously submitted testimony, either individually or jointly with other witnesses, on OSS-related issues on behalf of AT&T in this Commission's proceedings involving the previous Section 271 applications filed by Qwest.[1]

## I. PURPOSE AND SUMMARY OF DECLARATION

5. The purpose of this Declaration is to assess whether, as Qwest contends,[2] Qwest is providing the nondiscriminatory access to its OSS required by the Telecommunications Act of 1996 ("the 1996 Act"), including the competitive checklist set forth in Section 271 of the Act. For the reasons stated below, Qwest does not provide the parity of access required by the Act.

6. Qwest's Application repeatedly cites the Commission's *Qwest 9-State 271 Order* as proof that it satisfies its OSS obligations under Section 271. Whatever the record of the *Nine-State 271* proceeding may have shown, however, the evidence described herein

[1] *See, e.g.,* Joint Declaration of John F. Finnegan, Timothy M. Connolly, and Mitchell H. Menezes filed in WC Docket No. 02-148 ("*Qwest I* Finnegan/Connolly Menezes Decl."); Joint Declaration of John F. Finnegan, Timothy M. Connolly, and Mitchell H. Menezes filed in WC Docket No. 02-189 ("*Qwest II* Finnegan/Connolly/Menezes Decl."); Joint Declaration of John F. Finnegan, Timothy M. Connolly, and Kenneth L. Wilson filed in WC Docket No. 02-314 ("*Qwest III* Finnegan/Connolly/Wilson Decl.").

[2] Brief of Qwest Communications International, Inc. In Support of Application for Authority To Provide In-Region, InterLATA Services in Minnesota, filed March 28, 2003, at 70-100 ("Application"); Declaration of Lynn M. V. Notarianni and Christie L. Doherty ("Notarianni/Doherty Decl."), ¶¶ 4, 7-8.

demonstrates that the OSS Qwest provides to CLECs continue to be seriously deficient – and that Qwest currently does not comply with the Act.

7. Indeed, the OSS deficiencies described herein, as well as those AT&T previously described in its comments responding to Qwest's previous applications, are so serious that they have already impeded AT&T's consumer market entry in Minnesota. Because of these problems, AT&T would be able to enter the residential market in Minnesota at the present time only by using Qwest's GUI interface – which would itself place AT&T at a competitive disadvantage.

8. The defects in Qwest's OSS that are an impediment to AT&T's consumer market entry in Minnesota include the following:

- Qwest has inadequate procedures and documentation regarding billing completion notices (described below).
- Qwest has required that CLECs insert not only the customer's telephone number, but also the customer's name and certain components of the customer's address, in order to retrieve a customer service record ("CSR"). This requirement needlessly prolonged the pre-ordering/ordering process for a CLEC. Only when it implemented its IMA Version 12.0 on April 7, 2003, did Qwest finally eliminate this requirement, in response to a CLEC change request.[3]
- The design of Qwest's parsed CSR, (which, unlike that of other RBOC, is not based upon the customer's telephone number) has made it unreasonably difficult for AT&T to identify the services and equipment that a customer currently obtains from Qwest and the customer's directory listings information, and thus to auto-populate such pre-ordering information into an LSR.[4]

[3] *See, e.g., Qwest III* Finnegan/Connolly/Wilson Decl. ¶¶ 43, 46, 53; Notarianni/Doherty Decl. ¶ 71.

[4] As AT&T has previously explained, Qwest groups information in the service and equipment ("S&E") section of the CSR based on the universal service ordering codes ("USOCs") for the various products and services ordered by the customer. As a result, a CLEC must parse the data in the S&E section to determine the applicable telephone number, as well as the line-based features associated with that particular number. This process requires a CLEC to perform a search for data which is so time-consuming and cumbersome that the CLEC is likely to populate the information

- The test environment offered by Qwest to CLECs differs significantly from its production environment (and thus does not enable AT&T to determine whether orders submitted via the EDI interface will be successful in the production environment).[5]

- Unlike other RBOCs, Qwest has required that on a migration-as-specified order, the CLEC must use different codes on the order to distinguish between those features that the customer is currently taking from Qwest but wishes to retain after the migration, and new features that the customer is taking from the CLEC. Under that requirement, the CLEC had to use the activity code "V" for "retained" features, and "N" for features that the customer is taking for the first time from the CLEC. This process requires the CLEC to dedicate additional time and costs to differentiate between "retained" and "new" features on the LSR, while increasing the likelihood of order rejections. Although Qwest recently eliminated this requirement in some situations when it implemented IMA Version 12.0 in April 2003, the requirement still applies to services AT&T wishes to offer to residential customers in Minnesota.[6]

9. In the *Qwest 9-State 271 Order*, the Commission found that several of the above-described current aspects of Qwest's OSS did not constitute a violation of Section 271,

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manually onto the LSR. *Qwest III* Finnegan/Connolly/Wilson Decl. ¶ 47; *Qwest II* Finnegan/Connolly/Menezes Decl. ¶ 137. In the regions of other RBOCs, by contrast, CLECs can readily auto-populate the information from the CSR's S&E section into an LSR, because that information is based on the end-user's telephone number. *Qwest III* Finnegan/Connolly/Wilson Decl. ¶ 44.

[5] *See Qwest III* Finnegan/Connolly/Wilson Decl. ¶¶ 51-54; *Qwest II* Finnegan/Connolly/Menezes Decl. ¶¶ 87, 90-121; *Qwest I* Finnegan/Connolly/Menezes Decl. ¶¶ 90, 93-113. Although Qwest agreed in late September 2002 to procedures that should lead to the inclusion of more products and activities in its SATE test environment, it is not yet clear whether those procedures are effective. *See* Notarianni/Doherty Decl. ¶ 739 & n.1104 (describing agreement). Furthermore, the new agreed-to procedures do not address other serious deficiencies in SATE that prevent it from mirroring the test environment, including SATE's failure to generate post-order responses of the same content, and in the same manner, as the responses created in the production environment. *E.g.*, *Qwest III* Finnegan/Connolly/Wilson Decl. ¶ 116; *Qwest II* Finnegan/Connolly/Menezes Decl. ¶ 100.

[6] *See Qwest III* Finnegan/Connolly/Wilson Decl. ¶¶ 45, 49-51. Even assuming that the new functionality that Qwest implemented this month works as intended, that functionality will not totally eliminate the requirement that CLECs differentiate between "retained" and "new" features and directory listing information on the LSR. CLECs will still be required to differentiate between "retained" and "new" features/information when they request changes to the end-user's directory listing or when the end-user wishes to take service that will block numbers with "900" or "976" area codes. The continuation of Qwest's requirement in these situations will be a considerable burden on AT&T, which intends to include "900/976 blocking" in each of its consumer offerings. This burden will be exacerbated by the cumbersome procedures that Qwest imposes on orders involving blocking, and on orders for changes in directory listings. When a customer currently takes more than one form of blocking from Qwest, Qwest does not permit a CLEC to add, delete, or change blocking for a customer on a single LSR. For example, if the customer currently takes both "LD blocking" and "900/976 blocking" from Qwest, but does not wish to continue the LD blocking after migrating to AT&T, AT&T must submit two separate LSRs to Qwest – one LSR to delete the "LD blocking" and a separate LSR to retain the "900/976 blocking" (which AT&T must designate as a "retained" feature on that LSR). As a "workaround," Qwest proposed a cumbersome process for blocking requests that requires AT&T to type instructions (such as "delete LD blocking but retain 900/976 blocking") in the Remarks section of the LSR and populate the manual handling indicator. This process will cause the LSR to fall out for manual processing and, therefore, increase the risks of errors and delays in provisioning. In the case of orders for changes for directory

notwithstanding evidence to the contrary presented by AT&T and other CLECs.[7] Regardless of whether they constitute Section 271 violations, however, these aspects of the OSS have impeded AT&T's entry into the marketplace, by forcing AT&T to either to adopt "workarounds" (such as using the GUI interface, rather than EDI) or by requiring AT&T to wait until after Qwest removed some of them when it implemented its releases and then modify its systems to be able to take advantage of the changes – a process that requires considerable time and resources.

10. AT&T's entry into the residential market in Minnesota has also been impeded because Qwest has not implemented more than 20 of AT&T's change requests, which seek the elimination of defects in the current OSS that impede CLEC entry. Those change requests encompass virtually every OSS function, from pre-ordering through billing. For example, AT&T's change requests seek implementation of modifications to ensure that CLECs receive only one billing completion notice ("BCN"), rather than multiple BCNs, for a single LSR; implementation of the industry standard CORBA pre-ordering interface (a request which Qwest recently denied); improvements in the parsed CSR; implementation of the industry standard line loss notice;[8] elimination of the requirement that CLECs enter a class of service

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listings, Qwest does not parse all directory listing information on the CSR – thereby forcing the CLEC to engage in a time-consuming search for the DL information that it needs.

[7] *See Qwest 9-State 271 Order* ¶ 56 (finding that Qwest did not violate its OSS obligations by requiring CLECs to insert address when retrieving a CSR or completing a migration order); *id.* ¶ 58 (finding that it is not "competitively significant that Qwest requires carriers to include a customer's existing services and other pieces of information in order to process an order"); *id.* ¶¶ 50-53 (rejecting argument that pre-ordering and ordering functions are not integratable, and that Qwest's parsed CSR makes it extremely difficult for CLECs to auto-populate data from the CSR into the LSR); *id.* ¶ 139 (finding that Qwest's Stand-Alone Test Environment sufficiently mirrors the production environment).

[8] Specifically, AT&T has requested that Qwest issue "836's," the line loss notifications approved as an industry standard by the Ordering and Billing Forum. A separate "836" would be issued to a CLEC whenever that CLEC's customer migrated to another carrier. Because "836's" are delivered expeditiously to CLECs, they would be a substantial improvement over the completion and loss reports that Qwest currently issues. Although those reports are issued daily to CLECs, the entry of lost lines on the report is often delayed by one or more days after the actual migration occurs, or the loss is never listed on the report – thus raising the possibility that the "losing" CLEC will double-bill the customer.

code on the LSR;[9] and implementation of industry standard CABS BOS edits for wholesale bills.[10]

11. As previously indicated, AT&T wishes to provide local exchange service to residential customers in Minnesota through the UNE platform. However, the above-described difficulties with the OSS – including the difficulty of receiving billing completion notices, the deficiencies in Qwest's parsed CSR, and the shortcomings in Qwest's test environment – alone would jeopardize any plans by AT&T to enter the residential market today using the EDI interface. Moreover, AT&T needs to modify its systems in order to take advantage of certain improvements that Qwest has implemented in its IMA Versions 11.0 and 12.0 when AT&T uses the EDI interface. Those modifications, however, will take several months to complete.

12. Thus, AT&T is faced with two options, both of which impede AT&T's entry. In order to enter the market today, AT&T would be required to make its entry using Qwest's flawed GUI interface to conduct pre-ordering and ordering functions in connection with the provision of service through the UNE-P. On the other hand, in order to enter the market effectively using the EDI interface, AT&T would be required to postpone its entry by several months. Neither option is good for AT&T, for consumers, or for competition.

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[9] Unlike other RBOCs, Qwest currently requires CLECs to include a Retail Class of Service ("COS") USOC for the customer on each LSR. A Retail COS USOC signifies the type of service that the end-user was taking on a retail basis from Qwest. Examples of Retail COS USOCs are "flat rate-residential" and "flat rate-business." The Retail COS USOC is located on the customer's CSR. Requiring a CLEC to make these determinations requires the dedication of additional time and costs and increases the risk of order rejections. *See Qwest III* Finnegan/Connolly/Wilson Decl. ¶¶ 48, 51.

[10] Qwest does not generate UNE-P bills using the electronic, mechanized Carrier Access Billing System ("CABS"). Instead, Qwest continues to use its own proprietary Customer Record Information System ("CRIS") to generate the bills. Because CRIS is not an industry standard and varies substantially from ILEC to ILEC (and even within Qwest's three billing regions), Qwest's use of CRIS impedes the efforts of CLECs which, like AT&T, wish to design their billing systems so that they can be used in all RBOC regions. Although Qwest issues its CRIS bills in the industry standard Bill Output Specifications ("BOS") Bill Data Tape ("BDT") format, those bills are not subject to CABS BOS edits, which ensure that all fields on the bills are populated correctly. The absence of such edits

13. Entering the market now using the GUI interface would place AT&T at a competitive disadvantage, because the GUI cannot be integrated with AT&T's own systems. Thus, if it used the GUI and wishes to store information into its own systems, AT&T would be required to type the same information twice – once into the LSR and once into its own systems. Such a process would simply increase the costs and time required to complete an order. It is for that reason that the Commission has found the necessity of such "dual data entry" to constitute a denial of nondiscriminatory access.[11]

14. The GUI suffers from other deficiencies that would impede AT&T's ability to compete effectively in the marketplace. CLECs using the GUI receive order status notices such as firm order confirmations or jeopardy notices from Qwest via e-mail messages, which cannot be entered electronically into the CLECs' own systems (unlike FOCs and jeopardy notices received via the EDI interface, which can be mechanically stored into those systems). Consequently, if it used the GUI, AT&T would be required to spend considerable time managing and retyping into its own systems the information contained in these e-mail messages. In addition, Qwest does not send BCNs to CLECs using the GUI; instead, such CLECs are required to manually query Qwest's systems to determine whether a BCN is issued for a particular order. *See* Notarianni/Doherty Decl. ¶ 512. If the BCN does not appear on the GUI, the CLEC must query Qwest's systems again at a later time to see whether the BCN was now available for viewing.

increases the likelihood that they will be inaccurate, because the CRIS source data will simply be mapped to a CABS format without the benefit of the CABS BOS editing process. *See Qwest III* Finnegan/Connolly/Wilson Decl. ¶ 80.

[11] *Second Louisiana 271 Order* ¶ 96; *First Louisiana 271 Order* ¶¶ 49-55; *South Carolina 271 Order* ¶¶ 152-159.

15. The use of the GUI would therefore substantially increase the time and costs that AT&T would incur in order to provide residential service at the present time. AT&T estimates that, on average, its service representatives would require at least 30 minutes more per order to use the GUI (including accessing status notices) than would be the case if it used EDI. Under the conservative assumption that AT&T's labor costs are $1.00 per minute, the use of the GUI would increase AT&T's additional costs by at least $30.00 per order.

16. Furthermore, the GUI was designed to be used by CLECs submitting relatively limited volumes of orders, and not by CLECs (such as AT&T) who plan to provide service on a mass-market basis. Thus, it is unclear whether the GUI would have adequate capacity to meet AT&T's pre-ordering and ordering needs even in the early stages of its entry into the Minnesota residential market.[12]

17. AT&T's other option – postponing its entry by several months to complete the developmental work necessary to use the EDI interface for its offering to residential customers – would be equally undesirable. Although the EDI interface is more suitable for the type of mass-market entry desired by AT&T, postponing entry to await the completion of the developmental work would deny Minnesota consumers the availability of a competitive alternative to Qwest's service even longer.

[12] Despite its limitations, the GUI interface does not require the CLEC to make any modifications in its own systems before it can use the GUI – in contrast to the EDI interface, which requires the CLEC to develop its systems so that the systems of the two companies will interact properly. Thus, a CLEC using the GUI can view BCNs simply by using the "Post Order" menu of the "Status Updates" screen of the interface. Notarianni/Doherty Decl. ¶ 512. Furthermore, because use of the GUI requires no modifications in a CLEC's systems, a CLEC using that interface has less need to use Qwest's test environment than would be the case if it used EDI. Finally, although it is still difficult to use, the CSR is more readable on the GUI than on EDI.

18. The above-described defects in Qwest's OSS are an impediment to entry. The fact that such defects exist reflects Qwest's continuing disregard of its obligation to provide parity of access to all OSS functions.

19. As discussed in Part II, for example, Qwest fails to provide nondiscriminatory access to ordering and provisioning functions. Qwest does not provide CLECs with the documentation that they need to be able to receive BCNs from Qwest. Moreover, Qwest's insistence on providing a BCN for each internal service order that Qwest generates for a particular LSR frustrates the purpose of a BCN: to inform the CLEC when it may properly begin billing its customer and submit any necessary change orders on that customer's account. Qwest also rejects an unreasonably high percentage of AT&T's orders.

20. As discussed in Part III, Qwest continues to deny nondiscriminatory access to billing functions. First, Qwest does not provide CLECs with terminating access information that would enable CLECs to bill Qwest when a Qwest customer originates an intraLATA toll call that terminates at a CLEC customer served by a CLEC switch. Second, Qwest's wholesale bills continue to be replete with errors, some of which have occurred for more than a year despite AT&T's complaints to Qwest.

## II. QWEST FAILS TO PROVIDE NONDISCRIMINATORY ACCESS TO ORDERING AND PROVISIONING FUNCTIONS.

21. Qwest fails to provide CLECs parity of access to ordering and provisioning functions in two significant respects. First, Qwest's processes and procedures for providing billing completion notices to CLECs are inadequate. Second, Qwest's OSS have rejected AT&T's orders at a rate that is unreasonable under any standard.

### A. Qwest Fails To Provide Billing Completion Notices In an Adequate Manner.

22. As the Commission has stated, "An important aspect of a competing carrier's ability to serve its customers at the same level of quality as a BOC is the timely receipt of order processing notifiers, which inform competitors of activities that an incumbent has initiated or completed at the request of the competing carrier." *New Jersey 271 Order* ¶ 93. Qwest's performance in providing billing completion notices, however, falls far short of meeting the nondiscrimination requirements of Section 271. Qwest does not provide CLECs with the documentation that would enable them to design their own systems to receive BCNs. Moreover, because Qwest insists on providing a separate BCN for *every* service order associated with an LSR, a CLEC may be unable to determine from receipt of a particular BCN whether it may, in fact, properly begin billing the customer.

23. The receipt of a timely, accurate, and complete BCN is critical to a CLEC's ability to compete successfully with Qwest in the local exchange market. A BCN advises a CLEC "that all provisioning and billing activities necessary to migrate an end user from one carrier to another are complete and thus the competitor can begin to bill the customer for service." *Id.*; *Pennsylvania 271 Order* ¶ 43. As the Commission has stated, "BCNs inform competitors of the completion of both provisioning and billing." *New Jersey 271 Order* ¶ 102.

24. In other words, a BCN confirms that an LSR has completed its journey through Qwest's legacy systems, and that the customer's account has been transferred to the CLEC. If Qwest sends the BCN prematurely, the CLEC may begin billing the customer before the account has actually been transferred – resulting in double billing. Conversely, if receipt of the BCN is delayed, the CLEC might not begin billing the customer until days after the actual

transfer date, which will force the CLEC to forego revenues that it had the right to collect from the customer unless it "back-bills" the customer. Under either scenario, the customer is likely to be dissatisfied, blaming the CLEC for the problem (and possibility canceling its service with the CLEC). That is why the Commission has stated that "Premature, delayed or missing BCNs may cause competitors to double-bill, fail to bill, or lose their customers."[13]

25. The failure of Qwest to send timely and accurate BCNs also limits a CLEC's ability to meet its customer's needs. Until it receives a BCN, a CLEC must assume that Qwest's systems still list the customer as Qwest's customer, not as the CLEC's customer. Thus, the CLEC is effectively unable to send a subsequent order on the same end-user's account until it receives the BCN for the preexisting order that it submitted to Qwest. For example, if a CLEC submits an LSR and the end-user later notifies the CLEC that he/she wishes to add a feature or product that he/she inadvertently failed to include when the end-user previously ordered service from AT&T, the CLEC cannot submit an order to add that feature or product until it has received the BCN. If the CLEC attempted to submit the "add" order before it received the BCN, the CLEC would likely receive an error message (rejection notice) stating, "This is not a CLEC customer."

26. The submission of a subsequent order on an end-user's account is a common practice in the industry. Customers, for example, often contact AT&T to request additional features that they inadvertently did not include in their original order for service, or later decided to add a feature to the service that they previously requested AT&T to provide.

[13] *New Jersey 271 Order* ¶ 102; *Pennsylvania 271 Order* ¶ 43. If the CLEC double-bills the customer, the customer is likely to blame the CLEC for the overbilling. On the other hand, if (due to a late or missing BCN) the CLEC begins billing the customer on a date after the date on which the customer's account actually was transferred, any

Alternatively, after placing its initial order, the customer might request AT&T to delete a feature that the customer ordered (because the customer changed his or her mind), or to terminate the service altogether (because the customer decided to migrate to another carrier).

27. In order to be competitive with Qwest, a CLEC needs the same ability as Qwest to submit change orders, and to have those orders provisioned with the same timeliness, accuracy, and reliability that Qwest experiences in its retail operations. The failure of Qwest to send a BCN, however, would place CLECs who have asked to receive BCNs at a significant competitive disadvantage. Unlike CLECs, Qwest's retail operations do not need to receive BCNs to determine whether an order has posted to the billing systems and completed its journey through the legacy systems. Qwest's retail representatives have direct, real-time access to such information. Thus, when a retail customer requests the addition or deletion of a feature, the Qwest retail representative can determine, while the customer is on the line, whether the preexisting order has posted and has passed through the legacy systems. As a result, Qwest can implement the customer-desired change on the date requested by the customer.

28. By contrast, the failure of Qwest to provide a timely and accurate BCN is likely to force a CLEC to delay the submission of a subsequent order for an end-user, and the provisioning of the changes that the customer desired. Such delay not only inconveniences the customer, but also harms the reputation for quality service that a CLEC needs to compete in the marketplace. If the CLEC cannot add a service on the date that the customer requested, the customer is likely to question the CLEC's effectiveness, and may well switch back to Qwest.

subsequent attempt by the CLEC to "back-bill" the customer for the revenue that it did not bill (but should have billed) is likely to elicit a strong negative reaction from the customer.

29. Although Qwest also provides CLECs with a service order completion notice ("SOC"), a SOC is an inadequate substitute for a BCN. A SOC advises a CLEC only that its order (and any associated service orders) has been physically completed, and has completed in Qwest's Service Order Processor. Notarianni/Doherty Decl. ¶ 222. Only a BCN advises a CLEC that the service order or orders have posted successfully to Qwest's billing systems, and that the CLEC therefore may begin billing the customer. *Id.* ¶¶ 424, 512.[14] That posting process may not be completed for several days after Qwest issues a SOC.[15]

30. Qwest claims that CLECs can receive BCNs either via its IMA-GUI interface, or via the IMA-EDI interface. Notarianni/Doherty Decl. ¶ 512. However, Qwest's processes regarding BCNs are deficient in two critical respects.

31. First, Qwest has not provided CLECs with documentation that sufficiently describes how CLECs using the EDI interface must develop their systems if they wish to receive BCNs. Qwest states that it will send BCNs via EDI "provided the CLEC is certified *and set up to receive the notice via IMA-EDI.*"[16] Qwest's OSS documentation, however, does not specify what modifications CLECs must make to their own systems so that they are properly "set up to receive" BCNs via EDI. Qwest's documentation also does not advise CLECs that (as described below) a CLEC will receive more than one BCN if Qwest's OSS generates more than one service order for a particular LSR.

[14]The Commission has previously recognized the critical difference between SOCs and BCNs. *See New York 271 Order* ¶ 188 (noting that Bell Atlantic sends BCNs "when an order is recorded as completed in Bell Atlantic's billing systems," and work completion notices "to inform carriers of the completion of the work associated with an order").

[15] When AT&T submitted a change request in early 2003 to receive only one BCN per LSR, and that the BCN be issued within three business days after the order has been provisioned, Qwest rejected the request on the ground that its processes are designed to return a BCN within *five days* of work completion.

[16] Declaration of Michael G. Williams ("Williams Decl.") ¶ 210 (emphasis added).

32. To the extent that Qwest has provided information to CLECs about the set-up required to receive BCNs and the issue of multiple BCNs, it has done so only verbally, during developers' meetings. Such verbal descriptions are plainly an inadequate substitute for full documentation of these issues, since the CLEC has no means of knowing whether Qwest's verbal descriptions are complete and accurate. In fact, Qwest has verbally given inconsistent responses to AT&T's inquiries concerning the number of BCNs that will be issued in a situation where more than one service order is generated for an LSR.

33. Without the necessary documentation, CLECs such as AT&T lack the information needed to set up their systems to receive BCNs. Even using the verbal instructions given by Qwest, AT&T has no assurance that it will set up its systems in accordance with Qwest's actual requirements.

34. Second, Qwest insists on issuing a separate BCN for each internal service order that it generates in connection with a particular LSR.[17] This practice means that a CLEC desiring to receive BCNs may receive two or more BCNs for an LSR that it submitted. For example, if the Qwest OSS generates five separate service orders in response to an LSR submitted by a CLEC, Qwest will send the CLEC five different BCNs – one for each service order. The service orders, however, may have been posted to Qwest's CRIS system at different times. The CLEC has no assurance that the BCNs are sent in the exact same sequence in which those orders were posted to the billing systems.[18] Thus, a CLEC may receive the BCN for the

[17] In its Application, Qwest admits that once a CLEC chooses to receive BCNs via the EDI interface, "they are generated *for all service orders*." Notarianni/Doherty Decl. ¶ 512 (emphasis added).

[18] Although the firm order confirmation ("FOC") notice issued by Qwest lists the numbers of all of the service orders generated for a particular LSR, a CLEC cannot determine from the FOC which of the service orders will be the last to be posted. Nor can a CLEC assume that the service order with the highest service order number will be the last one posted.

last of the service orders to be posted before it receives BCNs for service orders that were posted earlier.

35. The transmission of multiple BCNs for a single LSR would create substantial confusion for a CLEC, leaving the CLEC unable to determine when it may begin billing its customer and when it can send subsequent orders on the customer's account. Because Qwest issues more than one BCN when it generates more than one internal service order, a CLEC needs to receive the BCN for the service order that was posted *last* before it can begin billing the customer without risking the possibility of double billing. Yet, because the BCNs may not be transmitted precisely according to the order in which the service orders was posted, a CLEC may underbill the customer if it waits until it receives the last BCN before it begins billing.

36. There is no justification for Qwest's "multiple-BCN" system. AT&T needs to receive only a single BCN, after the last service order has been posted. To the best of AT&T's knowledge, Qwest is the only RBOC that issues more than one BCN when multiple service orders are generated. Other RBOCs issue a single BCN for an LSR, regardless of the number of service orders that are associated with the LSR.

37. Rather than play the informative role for which the BCN was intended, Qwest's "multiple-BCN" system creates the distinct possibility of confusing a CLEC. If it issues more than one BCN for a particular LSR, Qwest precludes the CLEC from determining whether or when the customer's account has been transferred from Qwest to the CLEC. Instead, the CLEC will risk double billing the customer (if it begins billing before it has received all of the

BCNs for the LSR) or underbilling the customer (if it waits until it has received all of the BCNs). This is precisely the risk that the issuance of a BCN was intended to prevent.

38. On February 27, 2003, AT&T submitted a change request to Qwest asking that Qwest change its processes and issue only one BCN for each LSR (with the BCN issued after the last service order associated with the LSR has been posted). AT&T's change request also sought a commitment from Qwest to return BCNs within three business days after provisioning of the work requested in the LSR had been physically completed. On March 14, 2003, however, Qwest rejected the change request on the grounds that its systems were not designed to return BCNs within a three-business-day interval, and that the change was therefore "economically not feasible."[19] Accordingly, on March 21, 2003, AT&T submitted a revised change request that seeks only the implementation of a single-BCN system.[20] At the present time, it is unclear whether Qwest will support the revised change request.

39. Until Qwest ends its multiple-BCN system, CLECs will not have parity with Qwest's retail operations. The issuance of multiple BCNs for a single LSR will essentially prevent the CLEC from determining when it may begin billing its customers without risking double-billing or underbilling. By contrast, as previously stated, Qwest's retail operations experience no such problems, because they are able to access the necessary information in real time.

[19] A copy of AT&T's February 27, 2003, change request, and Qwest's response of March 14, is attached hereto as Attachment 1.

[20] A copy of AT&T's revised change request, as filed on March 21, is attached hereto as Attachment 2.

### B. Qwest's OSS Reject An Unreasonably High Rate of AT&T's Orders.

40. In recent months, AT&T has seen a dramatic increase in the rejection rates for the orders that it has submitted to Qwest via the EDI interface. These increased rejection rates cannot reasonably be blamed on AT&T.[21]

41. The rejection rates for orders that AT&T submits via EDI have increased sharply in recent months. Between September and December 2002, the monthly rejection rates for EDI orders remained between 17 and 22 percent, even as monthly order volumes submitted via EDI decreased from approximately 18,000 in September and October to approximately 3,100 in December, when the rejection rate was 21.7 percent.[22]

42. In January 2003, the number of orders that AT&T submitted using the EDI interface decreased even further, to 408 orders. In February, AT&T submitted 1,413 orders via EDI – volumes that were higher than the January volumes, but less than half the order volumes submitted in December. Nonetheless, AT&T's EDI rejection rates *increased* substantially in both January and February. 37.5 percent of AT&T's EDI orders were rejected in January. In February, Qwest's OSS rejected 42.1 percent of AT&T's EDI orders – a rejection rate that was almost *twice* the December rate of 21.7 percent. Virtually all of the increase in rejection rates

[21] When AT&T raised this issue earlier this month in the Commission proceeding involving Qwest's Section 271 application for New Mexico, Oregon, and South Dakota, Qwest suggested that AT&T's concerns were bogus, because AT&T had not previously raised the issue in that proceeding. *See ex parte* letter from Melissa E. Newman (Qwest) to Marlene H. Dortch in WC Docket No. 03-11, dated April 11B, 2003, at 1. AT&T, however, did not raise the issue earlier in that proceeding because the true dimensions of the problem did not become apparent until after February 2003, when the rejection rate for orders submitted via EDI increased substantially for the second consecutive month. Although the rejection rate had also increased considerably in January 2003, AT&T submitted only 215 orders during that month. It was only in February, when AT&T's order volumes were more than five times the January level, that it became clear that the high rejection rates for January were not a one-time phenomenon. AT&T did not receive Qwest's reported data on rejection rates for January 2003 until the end of February 2003, and the rejection rates for February 2003 until the end of March 2003.

[22]The decrease in order volumes occurred as a result of the spinoff of AT&T Broadband, whose orders for local number portability represented the vast majority of orders that AT&T submitted via EDI until late 2002. Once the spinoff occurred, Qwest no longer included the volumes of orders submitted by AT&T Broadband in the data on rejection rates that it computed for AT&T.

involved orders that were "auto-rejected" – *i.e.*, orders that were processed and rejected by Qwest's automated systems, without falling out for manual processing.

43. AT&T has experienced these high rejection rates for EDI orders regardless of whether it submits UNE-P orders or orders for local number portability ("LNP") in connection with its AT&T Digital Link ("ADL") service. Between December and February, the percentage of the orders that AT&T submitted via EDI that were UNE-P orders rose from zero percent to 51.4 percent, while LNP orders decreased from 91.4 percent of total EDI orders to 26.8 percent.[23] As previously indicated, during the same time period the EDI rejection rate nearly doubled.

44. Similarly, the LNP orders that AT&T submits via EDI have experienced rejection rates that are unreasonably high under any standard. There is no reason why rejection rates should be high for LNP orders, which are relatively "simple," non-complex orders (in contrast to orders such as UNE-P and orders for complex services). Nonetheless, between September 2002 and February 2003, monthly rejection rates for ADL LNP orders (all of which are submitted via the EDI interface) have ranged from 43 percent to nearly 66 percent, even though the monthly volumes of such orders ranged from 142 to 313 orders. Virtually all of the rejections were "auto rejects," rather than manually processed orders.

45. Rejection rates of 37 to 42 percent or more are unreasonable by any standard. They plainly exceed the range "that the Commission has previously found to be acceptable." *See Qwest 9-State Order* ¶ 89 & n.316 (citing the 27 to 34 percent rejection rates

[23] The remaining 8.6 percent of December EDI orders, and remaining 21.8 percent of January EDI orders, were orders for UNE loops.

approved in the *New York 271 Order*). The order rejections are particularly egregious because, as described above, they affect orders regardless of their "simplicity" or "complexity."

46. Most of the rejection notices AT&T has received from Qwest in recent months state that the LSRs were rejected because the addresses on those LSRs were incorrect. Even assuming that incorrect addresses are the reason for the rejections, that problem cannot reasonably be attributed to AT&T. Address-based rejections would not have occurred if – like all other RBOCs – Qwest had implemented "telephone number migration," which allows a CLEC to place an order using only the customer's telephone number without having to type in the end-user's address. As the Commission has previously recognized, TN migration can substantially reduce rejection rates.[24] Rather than implement TN migration, however, Qwest has required that CLECs include address information on LSRs – thereby increasing the frequency of order rejections.[25]

47. These high rejection rates impose substantial costs on AT&T, thereby impeding its ability to compete in the marketplace. When (as is usually the case) an order is auto-rejected, AT&T must correct the original LSR and resubmit it (using the original version number). When the order is manually rejected, AT&T must prepare and submit an entirely new order in lieu of the originally-rejected order.[26] In either case, AT&T must devote considerable

[24]*See Qwest 9-State 271 Order* ¶ 89 (finding that implementation of TN migration "should reduce the reject rates experienced by competing LECs"); *Texas 271 Order* ¶ 160 (finding that TN migration can "virtually eliminate address-related rejects received by competing LECs on most types of orders"); *Georgia/Louisiana 271 Order* ¶ 125 (finding that BellSouth's implementation of TN migration "has reduced the percentage of rejected orders, especially address related errors").

[25]Qwest implemented TN migration on April 7, 2003, in connection with IMA release 12.0. *See Qwest 9-State 271 Order* ¶ 56, 89. However, some months of commercial experience will be required before it can be determined whether the new functionality is effective.

[26] *See* Notarianni/Doherty Decl. ¶ 217 (stating that "CLECs can correct LSRs with non-fatal errors, but LSRs with fatal errors are rejected (though CLECs can correct those as well by submitting new LSRs)").

personnel time and resources to ensure that the rejected orders are eventually accepted and processed by Qwest's OSS.

48. Qwest has previously cited the "low reject rates" achieved by AT&T during the Minnesota trials as evidence that the currently high rejection rates are not due to some deficiency in its own OSS performance.[27] Qwest's reliance on the Minnesota trial, however, is wholly misplaced. In the Minnesota trial, AT&T used the *same address* on all of the *thousands* of test orders that it submitted. All of the test lines used in the Minnesota trial were installed at the same address. That address was "hard-coded" into AT&T's software, so that the address was automatically populated into each LSR. Thus, it is hardly surprising that the rejection rates experienced during the trial were relatively low, because *the possibility of rejections based on an incorrect address had been eliminated through the use of a single, auto-populated address*. That situation obviously does not exist in the actual commercial environment, where addresses differ from LSR to LSR, and where CLECs must populate those different addresses into their LSRs.

## III. QWEST DOES NOT PROVIDE NONDISCRIMINATORY ACCESS TO BILLING FUNCTIONS.

49. As part of its OSS obligations under the Act and the competitive checklist, Qwest is required to "provide nondiscriminatory access to its billing functions, which is necessary to enable competing carriers to provide accurate and timely bills to their customers." *Qwest 9-State 271 Order*, App. K ¶ 39. In particular, Qwest "must provide complete, accurate, and timely (1) reports on the service usage of competing carriers' customers and (2) wholesale bills." *Maryland 271 Order* ¶ 26. Qwest, however, has done neither.

[27] *See ex parte* letter from R. Hance Haney (Qwest) to Marlene H. Dortch, filed April 8, 2003, in WC Docket No. 03-11, at 1-2; *ex parte* letter from Dan Poole (Qwest) to Marlene H. Dortch, filed April 3, 2003, in WC Docket No.

50. In the *Qwest 9-State 271 Order*, the Commission relied on Qwest's reported performance data in concluding that Qwest provided CLECs with service usage information and wholesale bills in compliance with its obligations under the checklist. *Qwest 9-State 271 Order* ¶¶ 127-130. However, subsequent to the issuance of the *Order*, two Commissioners and the Administrative Law Judge of the Minnesota PUC have found that Qwest's reported data on billing accuracy and DUF records are of questionable reliability, because they may have been impacted by the secret agreements that Qwest made with certain CLECs. These Commissioners and the ALJ found that Qwest's data on DUF accuracy were also unreliable because of Qwest had used a manual process for providing usage information to Eschelon for "UNE-Star," rather than use its normal DUF processes. In addition, the ALJ found that Qwest's data on billing accuracy were unreliable because they did not include the manual adjustments that Qwest made in the course of billing "UNE-Star," where Qwest initially (and erroneously) charged the resale rate and then discounted those charges to reflect the lower UNE-Star rate.[28] In view of these findings, Qwest cannot use its reported data to establish that it provides nondiscriminatory access to billing functions.

51. Even assuming that Qwest's reported data are reliable (and they are not), they fail to show that Qwest has provided CLECs with complete, accurate, and timely DUFs and

03-11, Att. at 2 & n.7. *See also Qwest 3-State 271 Order* ¶ 55 (citing rejection rates in Minnesota trial without discussing the reason for the low rates).

[28] Application at 83; Declaration of John Stanoch ¶ 52; *Minnesota PUC ALJ Recommendations for Checklist Items 1, 2, 4, 5, 6, 11, 13, and 14*, ¶ 96. *See also* Notarianni/Doherty Decl. ¶¶ 508-510, 515. Qwest suggests that the exclusion of these manual adjustments from its reported data on billing accuracy is appropriate because "Qwest's contracts with CLECs specifically require Qwest to bill this way."" Application at 83; Notarianni/Doherty Decl. ¶ 517. Qwest's argument, however, is a *non sequitur*. An agreement between Qwest and another CLEC to follow a particular billing process cannot serve as a license allowing Qwest to exclude data regarding its bills for that CLEC from the reported performance data. As the Minnesota ALJ recognized, Qwest's argument would effectively render its reported data meaningless, because it would enable Qwest to exclude data regarding any CLEC which had agreed that Qwest had "passed" the applicable performance measurement. *Minnesota PUC ALJ Recommendations for Checklist Items 1, 2, 4, 5, 6, 11, 13, and 14*, ¶ 309.

wholesale bills. As Qwest acknowledges, Qwest has not met the parity standard for billing accuracy (performance metric BI-3A) for the last four months. Application at 83; Williams Decl. ¶ 205. Qwest attempts to excuse this failure by attributing it to (1) "adjustments" that had to be made as a result of a settlement (in favor of the CLECs) in a dispute relating to UDIT contract rates versus cost docket rates, (2) a rate adjustment made manually for one CLEC in error, and (3) "adjustments" for previously charges non-recurring charges on conversions. *Id.* Qwest's excuses, however, do not withstand scrutiny. The "adjustments" that Qwest made in connection with the settlement of the rate dispute reflect the fact that Qwest initially charged the wrong rates to CLECs. Similarly, Qwest's second and third excuses are, in reality, admissions that Qwest made errors in billings. Those are precisely the type of errors that *should* be included in reported data on billing accuracy.

52. In any event, Qwest's performance in providing DUFs and wholesale bills to AT&T demonstrates that Qwest fails to provide nondiscriminatory access to billing functions. Qwest has not provided CLECs with the usage data that they need to bill Qwest for terminating access charges. Moreover, the wholesale bills that Qwest provides to AT&T continue to be replete with inaccuracies.

### A. Qwest Does Not Provide Complete and Accurate Usage Information.

53. Qwest fails to provide CLECs with complete billing information, because it does not provide CLECs with terminating access information that would permit CLECs to bill Qwest for terminating access charges for intraLATA toll calls which are originated by Quest's intraLATA toll customers and terminated to a CLEC's local exchange customers served by a CLEC's switch. Qwest claims in its Application that it 'provides call-by-call detail for all Qwest

intraLATA toll calls . . . that bill to the CLEC," and that it provides AT&T "with the means to separate local from intraLATA usage." Notarianni/Doherty Decl. ¶¶ 455, 458. But Qwest only provides such information for those situations where the *CLEC* serves the originating intraLATA toll customer via the UNE platform (and, therefore, the CLEC will be charged by Qwest for terminating access when that customer makes an intraLATA call to a Qwest customer).

54. By contrast, for those situations where the CLEC is terminating a call from a Qwest intraLATA customer on the CLEC's switch, Qwest does not provide information sufficient to enable the CLEC to distinguish those calls from local calls. Instead, these intraLATA calls appear as *local* calls on the DUF. CLECs have no independent means by which they can separate the intraLATA calls from Qwest's customers from truly local calls.[29] As a result, CLECs are denied substantial revenue.

55. The failure of Qwest to provide CLECs with the information that would enable them to bill Qwest for terminating access charges on intraLATA calls originated by Qwest's customers is plainly a denial of parity. Qwest itself has full access to data that enable it to bill CLECs for originating or terminating access, where applicable.

**B. Qwest's Wholesale Bills Are Not Accurate.**

56. In addition to its poor performance in providing DUFs, Qwest's wholesale bills to AT&T – whether paper or electronic – have contained numerous inaccuracies. Some of

[29] When Eschelon, one of the CLECs with which Qwest made secret agreements, brought this issue to Qwest's attention, Qwest responded by including a provision in its agreement with Eschelon whereby Qwest promised to pay Eschelon $2.00 per month per line for Qwest intraLATA toll traffic that terminates to customers served by Eschelon's switch. Qwest, however, did not make the same offer to other CLECs. Eschelon itself continued to escalate the issue to Qwest even after it agreed to the new provision in its interconnection agreement. *See Minnesota PUC ALJ Recommendations for Checklist Items 1, 2, 4, 5, 6, 11, 13 and 14*, ¶¶ 315-319.

these inaccuracies have not been resolved even though AT&T brought them to Qwest's attention in March 2002 – more than one year ago.[30]

57. Most notably, the electronic CRIS BOS BDT bills that AT&T has received have usually been out of balance ever since Qwest first began providing bills in BOS BDT format nine months ago, in July 2002.[31] Total charges on the bills are out of balance with the bill detail and with the CRIS paper bills. Because Qwest's systems do not always process billing data and data on the customer service record on the same day, the monthly charges on each bill also are out of balance with the information on the CSR. As a result of these problems, AT&T has been unable to process these electronic bills, and must still rely on the CRIS paper bills for processing. In obvious recognition that these and other flaws in the CRIS BOS BDT bill preclude it from being used in lieu of the paper bills that it also issues, Qwest still declines to deem the CRIS BOS BDT bill as a bill of record.[32]

58. In addition to this fundamental flaw in its electronic bills, Qwest's wholesale bills – whether paper or electronic – continue to contain numerous inaccuracies. First, Qwest's charges for long-distance calls in its bills continue to be inaccurate. Qwest still includes charges by other long-distance carriers in the bills. Furthermore, those charges are billed by Qwest on an individual call basis, rather being summarized at the end-office level at the

[30] *See Qwest III* Finnegan/Connolly/Wilson Decl. ¶¶ 107-111; *Qwest II* Finnegan/Connolly/Menezes Decl. ¶ 266 & Att. 20 (describing inaccuracies that AT&T first raised with Qwest in March 2002 after discovering errors in a manual review of Qwest's paper bills).

[31] *See Qwest III* Finnegan/Connolly/Wilson Decl. ¶ 102 (describing the out-of-balance condition of the CRIS BOS BDT bills that AT&T received for the months of July through September 2002).

[32] *Id.* ¶ 105 (describing statement of Qwest's representatives at September 19, 2002 meeting with CLECs that the CRIS BOS BDT bill could not serve as the bill of record because, among other things, the bills were still out of balance).

unbundled or wholesale rate (on a minutes-of-use basis).[33] Qwest has acknowledged the impropriety of including other IXCs' charges on AT&T's bills. The issue of billing long-distance charges on an individual call basis remains an issue in contention between the parties. Regardless of whether Qwest has agreed that the charges are inaccurate, however, it is inexcusable that problems acknowledged by Qwest have taken more than a year to resolve. In any case, this error would never have occurred in the first place if Qwest has followed the guidelines of the Ordering and Billing Forum ("OBF"), which do not provide for assessment of such long-distance charges on UNE-P bills.

59. Second, Qwest continues to bill AT&T for "800" service line charges. *Qwest III* Finnegan/Connolly/Menezes Decl. ¶ 110. Qwest has failed even to provide AT&T with a list of the numbers to which the charges purportedly correspond.

60. Third, Qwest still erroneously bills AT&T for pay-per-use charges such as "call forwarding" and "three-way calling," which AT&T believes are already included in the cost of the recurring charges. *Qwest II* Finnegan/Connolly/Wilson Decl. ¶ 267. Qwest continues to assess these charges even though it previously acknowledged that it had erred in billing AT&T for such charges. *Id.* ¶ 267 n.200.

61. AT&T and Qwest have held numerous meetings and conversations during the last year to discuss some of these and other errors that Qwest has made on AT&T's wholesale bills. Although AT&T hoped that the discussions would lead to a satisfactory resolution of the problems, Qwest has not yet developed systems that provide accurate bills to AT&T – as the continuing errors on the bills demonstrate.

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[33] *Qwest III* Finnegan/Connolly/Menezes Decl. ¶ 109; *Qwest II* Finnegan/Connolly/Menezes Decl. ¶ 267.

62. Qwest has been slow to fully resolve other inaccuracies that AT&T first raised with Qwest in March 2002. Until August 2002, Qwest's bills continued to include directory advertising charges. *Qwest III* Finnegan/Connolly/Wilson Decl. ¶ 108. Similarly, only in July and August 2002 (after months of protests by AT&T) did Qwest finally stop its erroneous practice of billing AT&T for charges in QwestDex (Qwest's Yellow Pages directory, which Qwest sold in 2002) and Internet Service Provider charges. *Id.* ¶ 111. Both of those charges should have been billed to the end-user in the first place, not to AT&T. And Qwest continued to bill AT&T until July 2002 for wireless expenses, even though AT&T's UNE-P bills should include only charges for switching and transport. *Id.* ¶ 108.

63. Although Qwest stopped billing AT&T for charges such as directory advertising and wireless expenses more than eight months ago, AT&T is *still* in the process of accounting for all of the credits due to AT&T from Qwest for these erroneous charges from the first month in which the charges appeared on the bills. Based on AT&T's review, it does not appear that Qwest has posted all credits to AT&T's account. There is no reason why Qwest should have taken so long to post these credits.

64. Nor should Qwest make it so difficult for AT&T to make the determination of whether Qwest has fully credited AT&T for these erroneously-billed amounts. Like the bills that it received in early 2002, AT&T's current wholesale bills fail to provide details of debit and/or credit adjustments at the account level. *Qwest II* Finnegan/Connolly/Menezes Decl. ¶ 266. As a result, although Qwest lists on the bill the total amount of credits that it is giving to AT&T, AT&T cannot determine from the bill the particular charges (or types of charges) to

which the credits apply. Thus, AT&T cannot verify from its bills alone whether Qwest has given AT&T all of the credits associated with the assessment of the above-described erroneous charges.

65. The continuing deficiencies in Qwest's bills substantially impair AT&T's opportunity to compete. AT&T incurs substantial expenditures both in paying the erroneous amounts and in attempting to resolve them. For example, in three States of the Qwest region (Arizona, Colorado, and Washington), AT&T estimates that it has been required to pay $124,000 in erroneous charges to Qwest even though its entry in those States has been relatively limited. Regardless of the size of the amounts that AT&T must pay in erroneous charges, however, AT&T must also dedicate substantial time and costs in attempting to resolve the errors with Qwest. In some instances (as in the case of the above-described $124,000 in erroneous charges), AT&T's expenditures in resolving the problem with Qwest may approach or even exceed the amounts in issue, given Qwest's lack of responsiveness to billing problems. In view of Qwest's continuing inability to provide accurate bills, AT&T will likely be required to devote even more resources to this effort as it enters the market in more States, and acquires greater volumes of customers, in the Qwest region.

66. Moreover, the inaccuracies in the wholesale bills may impair AT&T's reputation with its customers. Some of the charges that Qwest has billed incorrectly to AT&T are directly related to the end-user. These charges include long-distance charges, QwestDex, wireless charges, and charges for the customer's Internet Service Provider. When customers taking any of these charges have migrated from Qwest to AT&T, Qwest has improperly billed AT&T, rather than the end-user, for some of the charges that the customer owes to Qwest. Only after AT&T notifies it of such an error will Qwest credit AT&T and send a bill for the charges to

the customer, which by that time has switched to AT&T. Because the process of resolving the errors can be lengthy, the bill that Qwest sends to the customer may encompass several months of charges – and the customer, irate at the large bill, may blame AT&T for the problem.

## CONCLUSION

67. The above-described deficiencies of Qwest's OSS belie Qwest's claim that it provides the nondiscriminatory access, and therefore gives CLECs the meaningful opportunity to compete, required by the 1996 Act and this Commission's orders. The Commission cannot reasonably find that CLECs have a meaningful opportunity to compete when: (1) Qwest does not provide CLECs with the ability to receive the billing completion notices that they need to ensure that their billings of their customers will be accurate, and that they can send subsequent (change) orders for their customers without rejection; (2) Qwest's current "multiple-BCN" process serves to cause confusion, rather than give CLECs the information they need; (3) Qwest's OSS reject an unreasonably high rate of CLEC orders; (4) Qwest does not provide CLECs with complete usage information, thereby denying them the ability to collect revenues to which they are entitled for certain intraLATA calls originated by Qwest customers; and (5) Qwest does not provide accurate wholesale bills to CLECs.

68. Individually and collectively, these deficiencies in the OSS substantially impede a CLEC's ability to compete with Qwest. In AT&T's case, these and other problems with the OSS that it has struggled to overcome have impeded AT&T's entry into the residential local exchange market in Minnesota. AT&T would be able to enter that market at the present time only by using a GUI interface that, under the Commission's precedents, denies parity. Yet,

in order to use the EDI interface for its market entry, AT&T would be required to postpone its entry for several months. Either alternative is detrimental to competition.

69. Although Qwest asserts that it has "designed and modified its OSS with the goal of ensuring CLECs have nondiscriminatory access to its features, functions, and capabilities,"[34] precisely the opposite is true. Qwest has designed its systems to impede market entry – to the detriment of consumers, who are thus denied an alternative to Qwest's monopoly over local exchange service.

70. Because Qwest has failed to follow the requirements of the Act, CLECs have repeatedly requested Qwest to make changes in its systems that would reduce the multitude of defects in the OSS and thus move Qwest closer to compliance with its OSS obligations. Thus, CLECs have submitted numerous change requests through the Change Management Process ("CMP") for modifications intended to eliminate defects in the OSS that impede CLEC entry. Qwest's recently-issued Initial Prioritization List for Release 14.0, which is not scheduled for implementation until December 2003, lists at least 50 pending CLEC change requests prioritized for purposes of that release alone. At the present time, however, it appears that fewer than one-quarter of those CRs will be implemented in release 14.0.[35]

71. As previously described, the pending change requests of CLECs include more than 20 change requests filed by AT&T in the CMP. Regardless of whether the implementation of these changes is required by Section 271, each of them would remove impediments to entry and improve the quality of the OSS.

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[34] Notarianni/Doherty Decl. ¶ 8.

[35] A copy of Qwest's initial prioritization list, which was issued on April 4, 2003, is attached hereto as Attachment 3.

72. Qwest, however, has been slow to respond to requests for improvements in its OSS. That behavior has not changed since the Commission approved Qwest's Nine-State application. As described above, Qwest continues to deny CLECs the parity of access to its OSS that it is required to provide under the checklist. It is apparent that only the denial of Qwest's current application here will give Qwest sufficient incentive to make the modifications in its OSS that are necessary to achieve compliance with its OSS obligations.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on April 17, 2003

John F. Finnegan

John F. Finnegan

# Attachment 1

# Open System Change Requests -- Detail

**Report Record #** 1

| CR # | Title | Status Date | Level of Effort | Interface Release # | Products Impacted |
|---|---|---|---|---|---|
| SCR022703-13 | Single WCN and Single BCN | Denied<br>3/12/03 | | IMA EDI | UNE-P |

***Originator:*** Osborne-Miller, Donna ***Originator Company Name:*** AT&T
***Director:*** Winston, Connie
***Owner:*** Winston, Connie
***CR PM:*** Stecklein, Lynn

## Description Of Change

Currently a CLEC can subscribe to WCN/BCN as well as receive a SOC. The understanding is that Qwest supports multiple WCNs and then multiple BCNs, a function of the many workd order that Qwest can open as a result of one CLEC service order. This request is to have the Qwest OSS system support one WCN and one BCN. The BCN will be sent no later than 3 days after the CLEC Service Order has been

## Status History:

| Date | Action | Description |
|---|---|---|
| 2/27/03 | CR Submitted | |
| 2/28/03 | CR Acknowledged | |
| 3/12/03 | Clarification Meeting Held | |
| 3/13/03 | Draft Response Issued | |
| 3/14/03 | Qwest Response Issued | |
| 3/14/03 | Status Changed | |

## Qwest Response

REVISED RESPONSE
March 14, 2003

Donna Osborne-Miller
AT&T

CC:
Connie Winston
Sue Stott
Beth Foster
Kit Thomte

This letter is in response to CLEC Change Request number SCR022703-13, dated 02/27/03, titled: Single WCN and Single BCN.

CLEC CR Description:
Currently a CLEC can subscribe to WCN/BCN as well as receive a SOC. The understanding is that Qwest supports multiple WCNs and then multiple BCNs, a function of the many work orders that Qwest can open as a result of one CLEC service order. This request is to have the Qwest OSS system support one WCN and one BCN. The BCN will be sent no later than 3 days after the CLEC Service Order has been provisioned.

History:
A clarification meeting was held on Wednesday March 12, 2003 with AT&T and Qwest representation.

Qwest Response:
Qwest has completed an analysis for CR SCR022703-13, Single WCN and Single BCN, and has determined that this change is economically not feasible. This change would require a restructure of the billing systems to deliver simultaneous transactions with the service order processor (SOPs). This request would require Qwest to develop a new process impacting several layers of Qwest management and impact currently monitored standards for billing completions notification. Qwest's analysis determined that the estimate for the initial implementation of this change would be well above $5 million.

Considering that the information is currently available to CLECs and sent no later than 5 days after the CLEC Service Order has been provisioned, Qwest is denying your request for SCR022703-13, Single WCN and Single BCN, based on economic infeasibility.

Sincerely,

provisioned

Lynn Notarianni
Information Technologies Senior Director
Qwest

DRAFT RESPONSE
March 13, 2003
RE: SCR022703-13

Qwest has reviewed the information submitted as part of AT&T's Change Request SCR022703-13. Based upon research that has been conducted following the Clarification meeting (held March 12, 2003) Qwest is still examining the issue. Qwest will continue to research the problem and provide an updated response at the March Systems CMP Meeting.

At the March Systems CMP Meeting, CMP participants will be given the opportunity to comment on this Change Request and provide additional clarifications. Qwest is interested in the experiences of the CMP community as relates to this issue. Qwest will incorporate any feedback received into further evaluation of this Change Request.

Sincerely,
Qwest

# Attachment 2

| | |
|---|---|
| ***CMP Area*** | Wholesale System |
| ***CR #*** | SCR032103-01 |
| ***Date Submitted*** | 3/21/03 |
| ***Submitter*** | AT&T |
| ***Title*** | Request Single BCN |
| ***Description*** | Request for Single BCN at the LSR level similar to the FOC and SOC.<br><br>Today the BCN is returned for each WCN via the Status Updates – Auto Push transaction.<br>If a CLEC sends a Move Order for UNEP POTS this will generate two internal QWEST orders or WCNs.<br>The internal QWEST order numbers must be captured and managed by the CLEC from the single Firm Order Confirmation (FOC) transaction. As each WCN completes provisioning a Status Updates – Auto Push Transaction is created. Once all WCN have been provisioned a single Service Order Complete (SOC) transaction is sent.<br>As each WCN completes billing a Status Updates – Auto Push Transaction is created. Once all BCNs have completed (unlike the SOC) a single BCN transaction is NOT generated. Thus the CLECs are required to use the internal QWEST orders to identify all of the BCNs and determine when Billing is completed for the LSR.<br><br>If a CLEC wants to receive the BCN they must subscribe to the Status Updates-Auto Push transaction. Once subscribed six types of statuses are automatically sent via this transaction. CLECs are required to filter through the unwanted statuses to obtain the BCN information related to the internal QWEST order number.<br><br>AT&T is requesting a Single BCN transaction thus resulting in FOC-SOC-BCN. |
| ***CRStatus*** | Submitted |
| ***Status Date Change*** | 3/21/03 |
| ***Interface*** | IMA EDI |

Attachment 3

Qwest Spirit of Service

2003-04-04 00:00:00

Carla Dickinson
AT&T
1875 Lawrence St - Room 10-17
Denver, CO 80202-
cdickinson@att.com

TO:Carla Dickinson

| | |
|---|---|
| **Announcement Date:** | **April 4, 2003** |
| **Effective Date:** | **Immediately** |
| **Document Number:** | **CMPR.04.04.03.F.01456.IMA14Prioritization** |
| **Notification Category:** | **Change Management Notification** |
| **Target Audience:** | **CLECs, Resellers** |
| **Subject:** | **CMP – Initial Prioritization List for IMA 14.0** |

The purpose of this notice is to provide you with the Initial Prioritization List for IMA 14.0. The attached Initial Prioritization List contains all IMA 14.0 candidates in the order in which they have been ranked. Prioritization is based upon the results of the votes received by the IMA 14.0 prioritization deadline of 5 p.m. MST on Wednesday, April 2, 2003.

This Initial Prioritization List will also be presented in the April Systems CMP Meeting to be held on April 17, 2003.

If you have questions about any of the Change Requests that appear on the Initial Prioritization List, you may obtain additional details about specific Change Requests via the Systems CMP Interactive Reports at http://www.qwest.com/wholesale/cmp/changerequest.html. Additionally, because all Change Requests on the prioritization form were discussed at the Systems CMP Meeting, the Change Request details are also available in the March Systems CMP Meeting Distribution Package available at: http://www.qwest.com/wholesale/cmp/teammeetings.html.

If you should have any questions about the Initial Prioritization List, please contact Kit Thomte at kthomte@qwest.com.

Sincerely,

Qwest

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process.

Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the ?Subscribe/Unsubscribe? web site and follow the unsubscribe instructions. The site is located at:

http://www.qwest.com/wholesale/notices/cnla/maillist.html

cc: Qwest Sales Representative

Doug Slominski

| RANK | TOTAL POINT VALUE | CR Number | Title | Company | Interface | Products Impacted | Est LOE Min | Est LOE Max | Est SATE LOE Min | Est SATE LOE Max | Original List # |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 500 | SCR022103-01 | IMA Revise BA & BLOCK Fields on RS & CRS Forms | Qwest | IMA Common | Centrex 21, Plus, Prime / Resale POTS & PBX / UNE Switching - UBS / UNE-P POTS & PBX, UNE-P Centrex 21 | 2450 | 4075 | 0 | 0 | 44 |
| 2 | 431 | SCR022703-24 | Allow post migration transaction order types to be processed by TN and SANO | WorldCom | IMA Common | UNE-P, Resale POTS | 1300 | 2200 | 10 | 15 | 51 |
| 3 | 423 | SCR112002-01 | Addition of 3rd Party Voice, Re-Sale, and existing DSL Flag added to all Qwest Pre-Qual Tools. | Covad | IMA Common | UNE DSL | 1500 | 2500 | 140 | 175 | 34 |
| 4 | 412 | SCR022703-04 | Support of Parsed and Structured CSR | AT&T | IMA EDI | UNE-P | 3225 | 5375 | 120 | 200 | 45 |
| 5 | 411 | SCR093002-02 | Change IMA so when a CLEC goes to check availability of a date and time for CHC in appointment scheduler, the CLEC can input OVERRIDE if the appointment needed is not available or make OVERRIDE one of the options for appointments. | Eschelon | IMA GUI | Unbundled Loop | 1475 | 2450 | 0 | 0 | 26 |
| 6 | 397 | SCR111102-03 | Ability for Qwest to accept LSRs. | AT&T | IMA Common | LNP, Private Line, Resale, Unbundled Loop, UNE Loop, UNE-P | 4175 | 5450 | 0 | 0 | 32 |
| 7 | 385 | SCR013003-01 | Issue Single Reject for Same PON and Version | WorldCom | IMA Common | All | 1370 | 2280 | 200 | 250 | 42 |
| 8 | 372 | SCR022703-18 | Eliminate CLEC Customer Code Requirement | AT&T | IMA Common | UNE-P POTS | 1425 | 2400 | 300 | 350 | 50 |
| 9 | 366 | SCR100102-01 | Pre-Order Directory Listing | WorldCom | IMA Common | All | 725 | 1225 | 0 | 0 | 28 |
| 10a | 360 | SCR121702-02 | WTNSTAT field via SAV when multiple match condition exists | WorldCom | IMA Common | All | 950 | 1600 | 0 | 0 | 37 |
| 10b | 360 | SCR052202-01X | Scheduled cut times for Resale and UNE-P DID's moving from one trunk to another (Cross-over CR PC052202-1X) | USLink | IMA Common | Resale and UNE-P DID | 2325 | 3875 | 0 | 0 | 19 |
| 11a | 358 | SCR022703-14 | Support IMA EDI generated Pending Service Order Notice and Status Updates via IMA GUI | AT&T | IMA Common | UNE-P | 1800 | 3000 | 0 | 0 | 49 |
| 11b | 358 | SCR103102-01 | Change to Confirmation Completion Report for FBDL responses | McLeodUSA | IMA Common | UNE | 6675 | 11500 | 500 | 1000 | 29 |
| 12 | 339 | SCR022703-08 | Support Partial Moves | AT&T | IMA EDI | All Products | 2760 | 4600 | 120 | 140 | 46 |
| 13 | 335 | SCR022703-12 | Line Loss Notification - 836 EDI | AT&T | IMA EDI | UNE-P | 3250 | 5400 | 100 | 150 | 48 |
| 14 | 327 | SCR013102-05 | LSOG 6 - Issue 1792: ATN replacement partial migration | Qwest | IMA Common | Funtional Impact not product impact | 3325 | 5500 | 50 | 75 | 4 |
| 15 | 320 | SCR013102-10 | LSOG 6 - Issue 2091: Add new field DISC ECCKT on EU form (related to SCR092501-2) | Qwest | IMA Common | Funtional Impact not product impact | 5150 | 8575 | 25 | 50 | 5 |
| 16 | 317 | SCR013102-04 | LSOG 6 - Issue 2284/2221/2226: Directory Listing Updates | Qwest | IMA Common | Funtional Impact not product impact | 4050 | 6725 | 100 | 150 | 3 |
| 17 | 307 | SCR012203-01 | PSON sent after the service order is in a ready to be worked status | Eschelon | IMA Common | All | 3500 | 4000 | 0 | 0 | 41 |
| 18a | 305 | SCR032702-02 | Line Share Products Eligible Edits | Qwest | IMA Common | All Line Share Products | 1575 | 2625 | 75 | 100 | 17 |

| RANK | TOTAL POINT VALUE | CR Number | Title | Company | Interface | Products Impacted | Est LOE Min | Est LOE Max | Est SATE LOE Min | Est SATE LOE Max | Original List # |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 18b | 305 | SCR062702-04 | Eliminate unpopulated sections on the OC (order confirmation) that IMA generates | Eschelon | IMA GUI | ALL | 2150 | 3575 | 0 | 0 | 21 |
| 19 | 300 | SCR081602-01 | Pre-order transaction CSR Retrieval lacking pertinent response information | WorldCom | IMA Common | All | 5500 | 8000 | 500 | 600 | 24 |
| 20 | 288 | SCR022703-10 | System Generate QWEST Specific information | AT&T | IMA EDI | UNE-P | 1650 | 2750 | 0 | 0 | 47 |
| 21 | 286 | SCR102102-1X | Dual Inventory of DSL tie cables in TIRKS and SWITCH/FOMS | Covad | IMA Common | Line Sharing, UNE | 3275 | 5450 | 375 | 500 | 40 |
| 22 | 283 | SCR013002-4 | Revision of TOS field in IMA | Qwest | IMA Common | UNE-P ISDN PRI, UNE-P DSS and Resale of ISDN PRI | 1300 | 2175 | 50 | 75 | 15 |
| 23 | 282 | SCR032202-1 | IMA GUI- PostOrder/Status Updates/Posted to be Billed | New Access | IMA GUI | All Products | 1000 | 1675 | 0 | 0 | 16 |
| 24 | 281 | 14886 | Pre-order Transaction: Due Date availability & standard Intervals | Eschelon | IMA Common | All Products | 4625 | 7700 | 225 | 350 | 11 |
| 25 | 271 | SCR103102-02 | Eliminate PON tracking requirement for Reserved TNs | WorldCom | IMA Common | All | 1425 | 2375 | 10 | 15 | 30 |
| 26 | 268 | SCR062702-05 | Minimize resale form and Centrex resale form screen to allow a CLEC to view a TN and it's features and change to the next TN without adjusting the screen. | Eschelon | IMA GUI | Centrex, Resale, UNE-P POTS, UNE-P Centrex | 1500 | 2500 | 0 | 0 | 22 |
| 27 | 266 | 26636 | Shared Loop Enhancements | Qwest | IMA Common | Shared Loop | 1950 | 3250 | 275 | 425 | 12 |
| 28 | 242 | SCR060402-03 | Change the way IMA allows the CLEC to utilize the template option | Integra | IMA GUI | All Products | 925 | 1550 | 0 | 0 | 20 |
| 29 | 238 | SCR111402-01 | Reject Invalid Special Characters | Qwest | IMA Common | All | 950 | 1600 | 15 | 20 | 33 |
| 30 | 221 | SCR012003-01 | FBDL Errors after Order Completes | Time Warner Telecom | IMA Common | FBDL | 1200 | 2700 | 0 | 0 | 38 |
| 31 | 218 | SCR021403-01 | Add New Reject & Jeopardy for MW1 Unavailability | WorldCom | IMA Common | UNE-P, Resale | 2100 | 3500 | 70 | 80 | 43 |
| 32 | 217 | SCR010202-02X | Shared loop on resold lines. (Cross-over CR PC010202-2X) | Twin Rivers Valley Telephone | IMA Common | Other: Shared Loop for Resold Customers | 3925 | 6525 | 165 | 210 | 14 |
| 33 | 216 | SCR013102-14 | LSOG 6 - Issue 2148: Resale Multi-Point Private Line | Qwest | IMA Common | Resale Private Line, EEL, UNE-P, DSS, Resale PRI & UNE-P PRI | 5200 | 8650 | 100 | 150 | 8 |
| 34 | 214 | 5206704 | Add OCn capable loop LSR to IMA | ELI / Frontier | IMA Common | OCn Loop Orders | 4050 | 6750 | 75 | 100 | 9 |
| 35 | 207 | SCR082801-1 | Add a Read Only User access for IMA | Vail Resort Telecommuni | IMA GUI | All Products | 1075 | 1800 | 0 | 0 | 10 |
| 36 | 197 | SCR062702-06 | USOC's and description by product for IMA GUI | Complete Telecommuni | IMA GUI | INP/LNP, Centrex, LNP, Private Line, Resale, UBL, UNE-Loop, | 1275 | 2150 | 0 | 0 | 23 |
| 37 | 195 | SCR041802-01 | Partial Confirmation of Standalone Directory Listings | Time Warner Telecom | IMA EDI | Directory Listings | 4250 | 7100 | 50 | 75 | 18 |
| 38 | 195 | SCR110702-01 | Request to add ability for CLEC's to get a list of circuit ID's or Telephone#'s associated with active pots-splitter connections. | Complete Telecommuni cations Inc. | IMA Common | | 1300 | 2200 | 450 | 500 | 31 |

| RANK | TOTAL POINT VALUE | CR Number | Title | Company | Interface | Products Impacted | Est LOE Min | Est LOE Max | Est SATE LOE Min | Est SATE LOE Max | Original List # |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 39 | 190 | SCR013102-02 | LSOG 6 - Issue 1860: Changes required for provisioning of Resale Pay Phone access lines | Qwest | IMA Common | PAL, UNE-P PAL | 5100 | 8500 | 0 | 0 | 2 |
| 40 | 188 | SCR013102-11 | LSOG 6 - Issue 2248: Correct errors for CICIP and SSIG to the Centrex Resale Service (080) Practice | Qwest | IMA Common | Resale *Centrex and* UNE-P Centrex | 2650 | 4400 | 25 | 50 | 6 |
| 41 | 177 | SCR013102-12 | LSOG 6 - Issue 1739: Establish Ordering Process for Unbundled DID Port | Qwest | IMA Common | Resale, Unbundled Switch Port | 6675 | 11300 | 25 | 50 | 7 |
| 42 | 176 | SCR022503-01 | LSOG 7 - Upgrade Field Numbering and Naming to Existing Qwest Forms & EDI Maps (FOUNDATION CANDIDATE) | Qwest | IMA Common | All | 5375 | 8975 | 375 | 475 | 1 |
| 43 | 174 | SCR121202-02 | Auto-completion notification process change request - This feature would be optional | Cox Communications | IMA Common | All Products | 650 | 1075 | 0 | 0 | 36 |
| 44 | 172 | SCR082202-01 | Allow Coin UNEP orders to be processed through IMA | Ernest Group | IMA Common | Coin UNE-P | 3125 | 5225 | 500 | 850 | 25 |
| 45 | 171 | SCR112202-01 | IMA to Prohibit Ordering of Qwest Business Line Plus in Oregon Rate Zone 3 | Qwest | IMA Common | Resale POTS | 925 | 1525 | 0 | 0 | 35 |
| 46 | 169 | SCR012003-02 | IMA GUI Ability to Template Completed/Closed Orders | Time Warner Telecom | IMA GUI | FBDL | 1000 | 2500 | 0 | 0 | 39 |
| 47 | 126 | SCR102901-2 | Make field for yield to glare information - remove from comment in remark section. | Qwest | IMA Common | ISDN, PRI, Resale, UNE-P ISDN PRI | 1800 | 3000 | 0 | 0 | 13 |
| 48 | 99 | SCR022703-26 | Documentation update (valid values on AVR and CSR response fields) | WorldCom | IMA GUI | UNE-P | 450 | 725 | 5 | 10 | 53 |
| 49 | 96 | SCR093002-05 | Single Source Document for implementing EDI | WorldCom | IMA Common | All | 7000 | 8000 | 0 | 0 | 27 |
| 50 | 83 | SCR022703-25 | Documentation update (valid date format) | WorldCom | IMA GUI | UNE-P | 225 | 375 | 5 | 10 | 52 |

Anticipated 14.0 Release Capacity: ~ 40,000 hours

NOTE: In cases where two or more CRs have the same "Total Point Value" these CRs are deemed to have tied and are assigned the same "Rank". They are ordered in this Initial Prioritization List by Est LOE Min (ascending).

**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of<br><br>**Qwest Communications International Inc., Consolidated Application For Authority To Provide In-Region, InterLATA Services In The State Of Minnesota** | ) | WC Docket No. 03-90 |

# DECLARATION OF KENNETH L. WILSON

1. My name is Kenneth L. Wilson, and I am a senior Consultant and Technical Witness with Boulder Telecommunications Consultants, LLC. My business address is 970 11th Street, Boulder, Colorado, 80302. I am submitting this affidavit on behalf of AT&T.

2. My education and relevant work experience are as follows. I received a Bachelors of Science in Electrical Engineering from Oklahoma State University in 1972, and I received a Masters of Science in Electrical Engineering in 1974 from the University of Illinois. In addition, I have completed all the course work required to obtain my Ph.D. in Electrical Engineering from the University of Illinois. The course work was completed in 1976. For 15 years before coming to Denver, I worked at Bell Labs in New Jersey in a variety of positions. From 1980 through 1982, I worked as a member of the network architecture and network planning team at Bell Labs for AT&T's long distance service. From 1983 through 1985, I was a member of the first AT&T Bell Labs cellular terminal design team. From 1986 through 1992, I led a Bell Labs group responsible for network performance planning and assurance for AT&T

Business Markets. From 1992 through 1993, I was a team lead on a project to reduce AT&T's capital budget for network infrastructure.

3. From January 1994 through May 1995, I led a team at Bell Labs investigating the various network infrastructure alternatives for entering the local telecommunications market. From 1995 through the spring of 1998, I was the Business Management Director for AT&T in Denver, managing one of the groups responsible for getting AT&T into the local market in Qwest's 14-state territory. In addition, I was also the senior technical manager in Denver working on local network and interconnection planning, OSS interface architectures and the technical aspects of product delivery.

4. As noted above, I am currently a consultant and technical witness with Boulder Telecommunications Consultants, LLC. In this capacity, I have worked with several companies, including AT&T, on all aspects of interconnection, unbundled elements, collocation and resale issues, among other things. My C.V. is attached hereto as Exhibit 1.

## I. CHECKLIST ITEM #1: INTERCONNECTION

5. Interconnection is the physical linking of two networks for the mutual exchange of traffic.[1] Qwest is required to provide interconnection at any technically feasible point within its network that is at least equal in quality to that provided by Qwest to itself or others on rates, terms and conditions that are just, reasonable and nondiscriminatory. Qwest must also provide interconnection in a manner no less efficient than the way in which it provides comparable

[1] 47 C.F.R. § 51.5 (definition of interconnection).

function to its own retail operations.[2] Furthermore, the FCC's rules related to the general rate structure of dedicated facilities require that "[t]he costs of dedicated facilities shall be recovered through flat-rated charges," and "[t]he costs of shared facilities shall be recovered in a manner that efficiently apportions costs among users. Costs of shared facilities may be apportioned either through usage-sensitive charges or capacity-based flat-rated charges, if the state commission finds that such rates reasonably reflect the costs imposed by the various users." 47 C.F.R. § 51.507(b) & (c). In addition, the FCC has stated that CLECs may "choose any method of technically feasible interconnection at a particular point on the incumbent LEC's network. Technically feasible methods also include, but are not limited to, physical and virtual collocation and meet point arrangements."[3]

6. Qwest's SGAT fails to comply with these requirements in Minnesota, because Qwest has removed language from the Minnesota SGAT that would allow CLECs to order interconnection trunks based on their business needs. In the past, Qwest has offered to build trunks to the CLEC's forecasts, even if they are higher than those made by Qwest, if the CLEC gave Qwest a deposit of up to 100% of the estimated cost to construct the trunks. This deposit was required when the CLEC trunk usage in the state was less than 50%, and Qwest would refund the deposit only if the statewide average usage rose above 50% for any month during the six months after the deposit. AT&T has argued in the past that these thresholds were unlawful and violated the checklist; indeed, Qwest, with its mature network, barely maintains 50% usage

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[2] *In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region IntraLATA Service in the State of New York*, Memorandum Opinion and Order, CC Docket No. 99-295, FCC 99-404 (1999) at ¶ 65 ("*New York 271 Order*").

[3] *New York 271 Order* at ¶ 66 (emphasis added).

on a statewide basis. To expect a CLEC, with much smaller, growing networks to have 50% usage is unreasonable.[4]

7. Qwest's new SGAT provisions in Minnesota are much more severely restrictive. Under the new language in SGAT § 7.2.2.8.6, three weeks after the CLEC submits its interconnection forecasts, Qwest will provide "feedback in the form of a potentially lower forecast" of the CLEC's needs. If the CLEC's usage on a statewide basis is less than 50% of the CLEC's trunks in service, then Qwest will build to its own lower forecast, not the CLEC's. In other words, Qwest simply refuses to provide interconnection trunks that the CLEC has requested, *even if* the CLEC is willing to give Qwest a deposit for the additional trunks, as it did under Qwest's previous policy.

8. Qwest is unlawfully refusing to build interconnection trunks that the CLEC requests and is willing to pay for. Even if a CLEC's statewide average usage is below 50%, that has no bearing on whether the CLEC can expect to experience substantial growth on particular routes. Qwest's insistence on tying whether it will build interconnection trunks on a particular route to the CLEC's statewide average usage thus makes no sense. After all, trunking in one part of a state can not be used to carry traffic in another part of a state, and as noted above, Qwest barely maintains 50% usage on its own network. By refusing to build interconnection trunks, Qwest is forcing the CLEC to risk trunk blocking between two locations if a particular route has insufficient capacity. CLEC customers are very sensitive to call blocking, and Qwest's policy has the potential to throttle the growth of new and expanding CLECs as they try to assure sufficient interconnection trunking in a time of potential business growth.

[4] *See Qwest 9-State 271 Order* ¶ 320; *see also* Wilson Qwest I Declaration ¶¶ 13-16 (filed July 3, 2002).

9. Most CLECs still remember periods of very high call blocking a few years ago when Qwest was not building to CLEC forecasts. The new language unlawfully risks the danger of history repeating itself. For all of these reasons, Qwest's SGAT does not satisfy checklist item one.

**VERIFICATION PAGE**

I declarc under penalty of perjury that the foregoing Declaration is true and correct.

/s/ Kenneth L. Wilson

Kenncth L. Wilson

Executed on: April 16, 2003